

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LUZ MARIA DE LUNA

VS.

WAL-MART STORES TEXAS, LLC

CIVIL ACTION NO.: 5:21-CV-235

DEMAND FOR JURY TRIAL

ORIGINAL NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COMES NOW Defendant, **Wal-Mart Stores Texas, LLC** (improperly referred to as “Wal-Mart Stores Texas, LLC d/b/a Wal-Mart Stores Texas 2007, LLC”), and pursuant to 28 U.S.C. §1446(a) and §1441(b), files this Original Notice of Removal of the present cause from the 225th Judicial District Court of Bexar County, Texas, in which it is now pending, to the United States District Court for the Western District of Texas, San Antonio Division, and in support thereof would respectfully show the following:

1. Defendant, **Wal-Mart Stores Texas, LLC**, is the sole Defendant, and Luz Maria De Luna is the sole Plaintiff in a lawsuit commenced in the 225th Judicial District Court of Bexar County, Texas, Cause Number 2021CI01270.

2. Plaintiff’s Original Petition was filed on January 21, 2021, in 225th Judicial District Court of Bexar County, Texas, bearing the style *Luz Maria De Luna v. Wal-Mart Stores Texas, LLC d/b/a Wal-Mart Stores Texas 2007, LLC* and the Cause Number 2021CI01270. A true and correct copy of all process and pleadings in the State cause, including the docket sheet, were attached to and made part of the Index of Exhibits filed contemporaneously.

3. Plaintiff served her Original Petition upon Defendant **Wal-Mart Stores Texas, LLC** via process server on February 5, 2021, through registered agent, CT Corporation. An

answer, in the form of a general denial, was filed in the State court action on behalf of Defendant **Wal-Mart Stores Texas, LLC**.

4. Defendant **Wal-Mart Stores Texas, LLC** is a Delaware limited liability company organized and existing under the laws of the State of Delaware. Its principal place of business is 702 SW 8th Street, Bentonville, Arkansas, 72716-6209.

5. According to the lawsuit, Plaintiff is an individual residing in Bexar County, Texas.

6. No change in the State of formation, organization, incorporation, or the principal place of business of Defendant **Wal-Mart Stores Texas, LLC**, or its respective member, has occurred since the commencement of the lawsuit, and Defendant **Wal-Mart Stores Texas, LLC** knows of no such change in the citizenship of the Plaintiff.

7. The lawsuit is a civil action arising from a dispute pertaining to a slip and fall at a Wal-Mart store located in San Antonio, Bexar County, Texas. The claims made include theories of premises liability, negligence/negligence per se, and vicarious liability.

8. By this lawsuit, Plaintiff seeks monetary relief of no more than \$250,000.

9. Conversely, Plaintiff indicates the amount in controversy does not exceed \$75,000.00. Under the heading of “damages,” Plaintiff indicates she is “...entitled to recover damages from Defendant in an amount *within* the jurisdictional limits of this Court, as well as pre and post-judgment interest...” Finally, in the prayer, Plaintiff pleads entitlement to “... judgment against Defendant in a total sum *in excess* of the minimum jurisdictional limits of this Court, plus pre-judgment and post judgment interests, all costs of Court, and all such other and further relief, to which she may be justly entitled...” Prior to the removal deadline, no formal stipulation was entered into, clarifying the contradictions within plaintiff’s pleadings.

10. The lawsuit is within the Federal Court's original jurisdiction pursuant to 28 U.S.C. §1332, by reason of the diversity of citizenship of the parties and the amount of controversy.

11. This lawsuit is properly removed to the United States District Court, for the Western District of Texas, San Antonio Division, pursuant to 28 U. S. C. § 1441 and 28 U.S.C. §1446

12. The Original Notice of Removal is timely filed in accordance with 28 U.S.C. §1332(a) and §1441(b), because it is filed within thirty (30) days of the date of Defendant's receipt of the summons and initial pleading and determined the case was removable.

13. Defendant requests a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant **Wal-Mart Stores Texas, LLC** prays that this action be removed from the 225th Judicial District Court of Bexar County, Texas, Cause No. 2021CI01270, to the United States District Court, Western District of Texas, San Antonio Division; that this Court assume jurisdiction of this action; and henceforth, that this action be placed on the docket of this Court for further proceedings, the same as though this action had originally been instituted in this Court.

Respectfully Submitted,

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BY /s/ Mary M. Strauss
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ATTORNEY FOR DEFENDANT
WAL-MART STORES TEXAS, LLC

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument has been properly delivered pursuant to the Federal Rules of Civil Procedure on March 8, 2021 to the following counsel of record:

Ricardo "Rick" Pena
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Attorney for Plaintiff

/s/ Mary M. Strauss
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